

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MARYLAND

3 DARIUS F. QUEEN #305-181 \*

4 Plaintiff \*

5 v. \* Civil No.

6 H.D. WARD \* WDQ-02-3885

7 Defendant \*

8 \* \* \* \* \*

9 DEPOSITION OF DARIUS QUEEN

10 The deposition of Darius Queen was taken via  
11 videoconferencing in the above-captioned case on  
12 Thursday, September 9th, 2004, commencing at 9:30 a.m.,  
13 in the Office of Administrative Hearings, 11101 Gilroy  
14 Road, Hunt Valley, Maryland, and was reported by  
15 Dawn M. Hyde, a Notary Public.

16

17

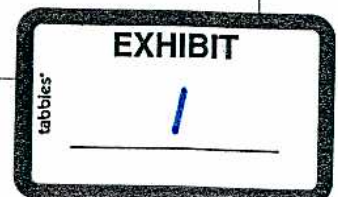
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1 APPEARANCES:

2

PAUL S. CAIOLA, ESQ.

3 Gallagher Evelius &amp; Jones

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4 Baltimore, MD 21201

On behalf of Plaintiff Queen

5

6 PHILIP M. PICKUS, ESQ.

Assistant Attorney General

7 St. Paul Plaza

200 St. Paul Place

8 Baltimore, MD 21202

9 On behalf of Defendant

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4

1 my questions because we can't record nods and a

2 shake of the head. If I ask a question that you

3 don't understand, it's okay to say, "I don't

4 understand that question, could you explain it." If

5 I ask you a question and you don't know the answer,

6 it's okay to say, "I don't know," or, "I don't

7 remember."

8 If you need to stop me at any time for an

9 explanation or to talk to Mr. Caiola, just let us

10 know. Are you okay with all that?

11 A Yes, sir.

12 Q How old are you?

13 A Thirty-nine.

14 Q Where are you originally from? I don't

15 need an exact address. I'm just looking for an

16 area.

17 A Prince George's County.

18 Q Do you still have family in Prince

19 George's County?

20 A Yes, sir.

21 Q Have you lived anywhere other than Prince

3

1 PROCEEDINGS

2 \* \* \* \* \*

3 Whereupon,

4 DARIUS QUEEN,

5 a witness herein, called for oral examination in the

6 matter pending, being first duly sworn to tell the

7 truth, the whole truth, and nothing but the truth,

8 testified as follows on

9 EXAMINATION

10 BY MR. PICKUS:

11 Q Mr. Queen, we need you to speak up as loud

12 as possible. We're having a little bit of trouble

13 hearing you.

14 A All right. Can you hear me now?

15 Q Yes. That's much better. Thank you. We

16 are going to take the deposition of you today.

17 You kind of have an idea of what that's

18 like because it's the same thing you sat through on

19 the 19th for the other three depositions. It's just

20 today, you're the subject of that deposition.

21 I need you to make verbal answers to all

5

1 George's County?

2 A I lived in Washington, D.C.

3 Q When was that?

4 A Ninety-five, and I guess I would say

5 about '87 or so.

6 Q Have you ever lived in Baltimore City?

7 A No, sir.

8 Q Have you ever lived anywhere other than

9 Washington, D.C., and P.G. County?

10 A No, sir.

11 Q So other than '87 and '95, the rest of

12 your life you lived in P.G. County?

13 A Yes, sir.

14 Q Do you have any family in Baltimore City?

15 A No, sir. None that I know of.

16 Q I'd like to go through your DOC history,

17 if we could, real fast.

18 How many times have you served time in the

19 Maryland system?

20 A I would say in the Maryland system -- are

21 you taking about the Correctional?

6

1 Q Right. The Division of Corrections.  
 2 A Division of Corrections, I was in  
 3 Hagerstown. So that's it that I know of.  
 4 Q Hagerstown and ECI?  
 5 A Right.  
 6 Q And I assume you went through MRDCC at the  
 7 beginning of your incarceration?  
 8 A Right, yes, sir.  
 9 Q So from what you remember, the three  
 10 institutions that you've been to in Maryland DOC are  
 11 Hagerstown, MRDCC and ECI; is that correct?  
 12 A As far as institutions, yes, correctional  
 13 institutions in the state of Maryland.  
 14 MR. CAIOLA: Now, let me just say for the  
 15 record, this isn't a trick or anything. You're  
 16 going to -- I'm sure it will help refresh his  
 17 recollection if he actually saw the records.  
 18 MR. PICKUS: I'm not trying to trick him.  
 19 BY MR. PICKUS:  
 20 Q Have you served in any non-Maryland  
 21 institutions, let's say, Prince George's County, for

7

1 instance?  
 2 A In the jail itself?  
 3 Q Yes, sir.  
 4 A I've been detained at the detention center  
 5 before in Prince George's County.  
 6 Q How about Washington, D.C.?  
 7 A Yes, sir.  
 8 Q Where were you incarcerated in Washington,  
 9 D.C., if you recall?  
 10 A I was at the jail also. I've been -- I  
 11 was detained at Lawson before.  
 12 Q I'm sorry, I didn't get that last one.  
 13 A Lawson. That's not in D.C. though but  
 14 it's a D.C. facility, right? It's in Virginia.  
 15 Q What kind of facility is it?  
 16 A It's an institution. It's a correctional  
 17 institution.  
 18 Q And your current incarceration has been  
 19 entirely ECI, with a brief stay at MRDCC?  
 20 A Yes, sir.  
 21 Q Do you recall when you began this current

8

1 incarceration, generally? I don't need an exact  
 2 date.  
 3 A At ECI -- starting at ECI? From what  
 4 point are we starting from?  
 5 Q Let's start from the beginning. You get  
 6 arrested. It was a burglary offense; is that  
 7 correct?  
 8 A Burglary offense. I was in Upper  
 9 Marlborough.  
 10 Q You were at P.G. County Detention Center?  
 11 A Right. P.G. County Detention Center.  
 12 Q And once you were sentenced, you were  
 13 moved to MRDCC?  
 14 A Yes, sir.  
 15 Q How long did you spend at MRDCC?  
 16 A Probably a month.  
 17 Q Did you have any problems at MRDCC?  
 18 A No, sir.  
 19 Q Did you have any enemies at MRDCC?  
 20 A No, sir.  
 21 Q Did you have any problems with any of the

9

1 staff at MRDCC?  
 2 A No, sir.  
 3 Q And where did you go from MRDCC?  
 4 A Here. Eastern Correctional Institution.  
 5 Q And how long have you been there?  
 6 A How long have I been here?  
 7 Q Yes, sir.  
 8 A I would say maybe a little over three and  
 9 a half years. Yes, I can't even -- let me see. I  
 10 came here November of 2001. So since November would  
 11 make three years.  
 12 Q Had you ever been to ECI prior to this  
 13 incarceration?  
 14 A No, sir.  
 15 Q My records show you got a nine-year jail  
 16 term and your mandatory release date is sometime in  
 17 2006. Does that sound right?  
 18 A Yes.  
 19 Q Now, when you first got to ECI, Eastern  
 20 Correctional Institute, where were you placed?  
 21 A I was placed in housing unit five, I

10

1 believe.

2 Q Do you recall the cell number?

3 A No, sir.

4 Q Do you recall how long you remained in  
5 housing unit five?

6 A I'm not sure. Maybe about three weeks.

7 Three weeks or so. I'm not sure though.

8 Q And where did you go when you were moved  
9 from housing unit five?

10 A I was placed in housing unit two.

11 Q And do you recall how long you were in  
12 housing unit two?

13 A Maybe about -- maybe -- I would say maybe  
14 about three weeks to a month. I'm not sure again  
15 though. Maybe about three weeks.

16 Q And where did you go from housing unit  
17 two?

18 A Housing unit one.

19 Q And that's where the events that this case  
20 involved all occurred, correct? Housing unit one.

21 A Yes, sir.

12

1 segregation unit?

2 A I don't know about a unit. I know it was  
3 a cell I went to. I went to a cell in housing unit  
4 three; cell one, I believe.

5 Q How long were you there?

6 A Maybe about two weeks. I'm not sure.  
7 Maybe about two weeks.

8 Q Where did you go from housing unit three?

9 A From housing unit three, I went back to  
10 housing unit five.

11 Q Is that where you are now?

12 A No. Now I'm in housing unit seven.

13 Q When did you get switched from five to  
14 seven?

15 A After -- what date? I don't know. I'm  
16 not sure what date.

17 Q Can you give me a general idea?

18 A No. I don't even recall. I'm not sure if  
19 it was still in the month of January. I believe it  
20 was still in the month of January but I'm not sure.  
21 I think it would have to be in the month of

11

1 Q How long were you in housing unit one?

2 A I moved into housing unit one 23rd of  
3 November.

4 Q You left it or you arrived at housing unit  
5 one?

6 A No. I moved into housing unit one on 23rd  
7 of December, I'm sorry.

8 Q And when did you leave?

9 A January 12th --

10 Q And where did you go?

11 A -- of 2002.

12 I went to housing unit four. Excuse me, I  
13 moved from housing unit three to administrative  
14 segregation in a lock-down cell. I went to three  
15 from housing unit two on January 12th of '02.

16 Q You lost me. You were in housing unit one  
17 and then you went to administrative segregation?

18 A From housing unit one, I went -- on  
19 January 12th of '02 I went to housing unit three on  
20 administrative segregation.

21 Q Is housing unit three the administrative

13

1 January of '02, though.

2 Q So when you first arrived at ECI, you  
3 spent three weeks in housing unit five. Is that  
4 kind of like the introduction time at ECI for you?

5 A Right. That's supposed to be like  
6 orientation and things of that nature.

7 Q Did you know any inmates at ECI when you  
8 arrived?

9 A Not when I arrived. None that I was  
10 familiar with at the time, no.

11 Q You didn't know anyone from Prince  
12 George's County who happened to be in ECI at the  
13 time?

14 A You say, "When I arrived." When I arrived  
15 I wasn't familiar with anyone, no.

16 Q And your incarceration at Hagerstown had  
17 been prior to this, correct?

18 A This was in 1987.

19 Q I assume at that point you weren't aware  
20 if anyone from Hagerstown was with you at ECI at the  
21 time?

14

1 A No, sir.

2 Q When you were there for a couple of

3 months, did you realize you knew inmates at ECI?

4 A Can you repeat that. I don't understand

5 what you said.

6 Q You said when you first arrived at ECI,

7 you didn't know any of the inmates.

8 After you were there for a little while,

9 did you start to realize that you did in fact know

10 some of the inmates that were there?

11 MR. CAIOLA: Do you mean previously that

12 he knew them, or that he got to know them at ECI?

13 MR. PICKUS: I was going to ask both but

14 let's start with previously.

15 A So are you saying once I arrived from --

16 what, DOC to ECI?

17 BY MR. PICKUS:

18 Q Right. Once you had been at ECI for a few

19 months, did you find out the people you knew from

20 your life prior to ECI were at ECI with you?

21 A Once I was here for a few months --

15

1 Q Right.

2 A -- did I run into people that I knew prior

3 to being --

4 Q Exactly.

5 A Not personally from the street, but from

6 the detention center. I ran into a few people that

7 was at the P.G. County Detention Center that had

8 been sent down here, yes.

9 Q So you spent three weeks in housing unit

10 five. Did you know anybody on housing unit five

11 during your three weeks there?

12 MR. CAIOLA: Objection. Hold on,

13 Mr. Queen.

14 Object to the phrasing of "know anybody."

15 You mean get to know anybody or know anybody from

16 prior --

17 BY MR. PICKUS:

18 Q Did you get to know anyone in housing unit

19 five in your three weeks there?

20 A I may, as far as, like, my cell buddy and

21 a little recreation we spent, yes. I talked with a

16

1 couple of guys.

2 Q Who was your cell buddy in housing unit

3 five?

4 A I don't know his name.

5 Q Do you remember any of the other inmates'

6 names that you got to know during rec time?

7 A No.

8 Q Did you get to know any of the staff while

9 you were at housing unit five?

10 (Videoconference disconnected from 9:56 a.m.

11 until 9:59 a.m.)

12 BY MR. PICKUS:

13 Q Mr. Queen, can you hear me?

14 A Yes, sir.

15 Q We're back on the record. We were talking

16 about your three weeks at housing unit five.

17 Did you get to know any of the staff at

18 housing unit five during your three weeks there?

19 A Not personally, I mean. No.

20 Q Did you have any problems with any of the

21 staff at housing unit five?

17

1 A No, sir.

2 Q Then you were transferred to housing unit

3 two, and I assume the reason for that transfer was

4 because you were done with your orientation period?

5 A Yes. I would say that's why.

6 Q And during your three weeks in housing

7 unit two, did you get to know any of the inmates in

8 housing unit two?

9 A Nobody really but my cell buddy and

10 another guy I would talk to in the rec hall.

11 Q Do you recall your cell buddy's name in

12 housing unit two?

13 A No, sir.

14 Q How about your -- the friend from the rec

15 hall? No?

16 A Not -- nicknames I remember. I recall

17 nicknames. But not real, the full name.

18 Q I'll take a nickname if you've got it.

19 A The cell buddy's nickname was Rose.

20 Q Rose like the flower?

21 A Yes.

18

1 Q And do you have the nickname on your  
2 friend from rec?

3 A I think it was Nicky or something. Nick  
4 or something. I don't know.

5 Q Did you have any problems with any inmates  
6 in housing unit two while you were there?

7 A No, sir.

8 Q Did you have any problems with any of the  
9 staff in housing unit two?

10 A No, sir.

11 Q Then you were transferred to housing unit  
12 one, correct?

13 A Yes, sir.

14 Q Do you know the reason for that transfer?

15 A Only thing I know is I was told that they  
16 needed to move somebody to housing unit one because  
17 somebody had to come back to two. It was something  
18 like that. I was trying to figure out why too.

19 Q And what cell did they put you in in  
20 housing unit one?

21 A 38. 38C. C38.

20

1 Q And how would you characterize your  
2 relationship with that person?

3 A There was no relationship. I mean, I  
4 spoke with him on a few occasions.

5 Q Do you recall his name?

6 A Not his real -- no, not his real name.

7 Q Do you recall his nickname?

8 A Not right off. I don't recall his name.

9 I seen him recently though. I don't recall his  
10 name.

11 Q Anyone else that you knew previously?

12 A Anyone else?

13 Q Yes, sir.

14 A No.

15 Q Did you get to know anyone while you were  
16 in housing unit one?

17 A Yes, sir.

18 Q More than one person?

19 A A few guys. I would sit around and played  
20 cards with quite a few guys.

21 Q Give me an estimate on how many.

19

1 Q Do you recall who your cell buddy was in  
2 housing unit one?

3 A Yes, sir.

4 Q Who was that?

5 A Kevin Burns, Barnes or whatever, Burns.

6 Q Kevin Barnes?

7 A Yes.

8 Q Had you ever had any contact with  
9 Mr. Barnes prior to moving into the cell with him?

10 A No, sir.

11 Q Did you know any of the other inmates from  
12 your prior life, prior to ECI, in housing unit one  
13 when you moved there?

14 A From my prior life? Repeat that. I don't  
15 understand what you said.

16 Q Did you know anyone from your prior  
17 experiences before ECI, someone you saw in housing  
18 unit one that you had previously known?

19 A Yes. I saw somebody that I knew from  
20 Upper Marlborough Detention Center that was in that  
21 unit.

21

1 A Maybe three or four people or so.

2 Q Do you recall their names?

3 A I don't recall any of their names. I  
4 recall this one older guy that I used to talk with  
5 all the time.

6 Q You say it was an older guy?

7 A Yes, sir.

8 Q And was he one of the guys you played  
9 cards with?

10 A No. He was the guy I went to church with.

11 He didn't -- I went to church with him and we went  
12 to religious service together and sat around and  
13 talked about previous, you know, what we were in  
14 there for or something.

15 Q Do you recall what cell this older  
16 gentleman was in?

17 A I believe he was in -- he was down the  
18 hall from me. He was in, like, 32 or something.

19 Q Did you know the cell numbers of the guys  
20 you played cards with?

21 A No.

1 Q Other than the gentleman you went to  
2 religious services with and the three or four  
3 inmates you played cards with, did you get to know  
4 anyone else in housing unit one?  
5 A No.  
6 Q I assume you eventually came into contact  
7 with Lieutenant Ward while you were in housing unit  
8 one?  
9 A No.  
10 Q You never had contact with Lieutenant  
11 Ward?  
12 A No.  
13 Q Well, you eventually complained to  
14 Lieutenant Ward about your cell buddy, didn't you?  
15 A Through a request slip, a written request.  
16 Q Had you ever met Lieutenant Ward prior to  
17 that?  
18 A No.  
19 Q Had you ever heard his name?  
20 A Yes. That's who I was told to write.  
21 Q But you never seen him face to face?

1 There's three meals a day?  
2 A Oh, yes, sir.  
3 Q And it sounds like you had snacks or you  
4 were allowed food in your cell; is that correct?  
5 A Oh, yes, we allowed to go to the  
6 commissary where you can buy food and stuff.  
7 Q Were the meals served at the same time  
8 each day?  
9 A Basically, yes, sir.  
10 Q Do you recall what those times were?  
11 A No, sir.  
12 Q And how was it done? Did the entire  
13 housing unit one eat at the same time?  
14 A No. They go on different tiers. They  
15 call different tiers in the housing unit and they  
16 call them at separate times.  
17 Q How many tiers are there in housing unit  
18 one, if you know?  
19 A I believe it was four tiers in all of the  
20 units, I believe.  
21 Q And which tier were you in while you were

1 A No, sir.  
2 Q Had you heard anything about him?  
3 A No, sir.  
4 Q How about Sergeant Thomas? Did you meet  
5 her while you were in housing unit one?  
6 A Yes.  
7 Q Was that early on or after a little while  
8 in housing unit one?  
9 A The day I moved into unit one.  
10 Q Did you have any problems with Sergeant  
11 Thomas?  
12 A I didn't have a problem with her, no, sir.  
13 Q I want to get an idea about what daily  
14 life was in housing unit one. If you can take me  
15 through that.  
16 How many times a day did you eat?  
17 A How many times a day did I what?  
18 Q Eat.  
19 A Eat? I would say you eat three times a  
20 day. You want to know how many times I eat?  
21 Q No, no. I'm talking about the meals.

1 in housing unit one?  
2 A C tier.  
3 Q So each meal, everybody on C tier ate  
4 together?  
5 A Yes, sir.  
6 Q And where would you eat?  
7 A We sat in the dining room.  
8 Q And where was the dining room in  
9 relationship to C tier?  
10 A I would say maybe -- I'm not sure, not the  
11 distance. I mean, it's not too far from the unit.  
12 Q Would there be any other inmates other  
13 than your tier eating with you?  
14 A I'm not sure. I'm not sure who ate  
15 with -- I know that the rest of the tiers in the  
16 unit would all share the same dining room together.  
17 But I'm not sure if any other units ate with their  
18 housing unit. I'm not sure.  
19 Q How was the food served to you?  
20 A You walked through a line.  
21 Q Buffet-style?

26

1 A Excuse me? I didn't hear you.

2 Q Was it served buffet-style or  
3 cafeteria style?

4 A Yes, cafeteria-style. You stood behind.

5 Q And were there inmates working the counter  
6 or was it staff?

7 A Inmates, I believe. I know it was inmates  
8 on the side. It was inmates.

9 Q How about recreation? How many hours of  
10 recreation did you get each day? And I'm  
11 specifically talking about while you were in housing  
12 unit one.

13 A To be honest, I can't say for certain.  
14 I'm not -- from the length of time I stayed in unit  
15 one, I'm just going to say that it's basically the  
16 same as over here.

17 So I would say that you came out in the  
18 morning and you got maybe an hour out from 7:30  
19 to 8:30. And I know that's how it is here on this  
20 side. And then you came out again at 11:30 in the  
21 morning until 2:00 at evening.

27

1 And then you stayed locked in again until  
2 dinner and you came out about 6:00 until 7:30. Then  
3 you locked back in and come back out to stay out  
4 until 10:00.

5 So you get about -- and if you want to add  
6 up all the hours, I'm not sure how much time of rec  
7 you got.

8 Q That's not necessary. What kind of  
9 activities did you do during your recreation time?

10 A I played cards. I played -- you say what  
11 do I do know or what did I do then?

12 Q What did you do then?

13 A I played cards, pinochle.

14 Q Give me an idea of what else was  
15 available. Could you exercise if you wanted to?

16 A You can't exercise on the unit. You can  
17 exercise outdoors, go to the gym.

18 Q And did you have access to the outdoors  
19 and the gym?

20 A On certain days.

21 Q Did you take advantage of --

28

1 A You have access to it.

2 Q Did you take advantage of the gym or the  
3 outdoors while you were in housing unit one?

4 A I took -- I went outside because you can't  
5 go to the gym with boots on. At that time I had  
6 boots. So I didn't have a pair of tennis shoes. So  
7 I could only go out to the yard on certain days.

8 Q Did you have access to televisions during  
9 recreation time?

10 A Yes, sir.

11 Q Did you have a television in your cell?

12 A Well, I mean --

13 Q Go ahead.

14 A I didn't own a TV, no.

15 Q Did some inmates have TVs in their cells?

16 A Yes, you allowed televisions.

17 Q And they had TVs during rec time as well?

18 A Yes. You got two TVs in the recreation  
19 room. You got two televisions.

20 Q So you mostly played cards during your  
21 recreation time, correct?

29

1 A Mostly played cards or talked with the  
2 older guys.

3 Q And when you played cards, was it with the  
4 same three or four gentlemen that we already talked  
5 about?

6 A Basically, yes. It was always the same  
7 three people or so.

8 Q Did you guys play cards for money?

9 A No. We just played pinochle for fun.

10 Q You mentioned the commissary. Did you  
11 have to use your own money at the commissary?

12 A Yes. You have to use your own money, or  
13 if you got a job, you use your -- yes, sir, you use  
14 your own money, right.

15 Q And what was available at that commissary?

16 A I don't know. During the short distance  
17 of time I was in unit one, I never even went to the  
18 store.

19 Q When you were in housing unit one, where  
20 did you play cards?

21 A In the rec hall, recreation room.

30

1 Q Did everyone in housing unit one have the  
2 same rec time?  
3 A I believe so.  
4 Q And would they use the same rec hall that  
5 you played cards in or would they be in a different  
6 rec hall?  
7 A Everybody in housing unit one?  
8 Q Yes.  
9 A Everybody in housing unit one, they got  
10 their own rec halls. Everybody had individual rec  
11 halls for their particular tier.  
12 Q Each tier had a rec hall. Is that what  
13 you're telling me?  
14 A Yes, sir.  
15 Q And could people from other tiers come to  
16 your rec hall if they wanted to play cards with you  
17 one day, or did they not have any access at all?  
18 A No, they don't have access to walk in and  
19 out of the tiers.  
20 Q So no one from other tiers could come and  
21 have rec with you at all?

31

1 A No, sir.  
2 Q Is the same true for the gym and the  
3 outdoor rec area?  
4 A No, that's different. For the gym and  
5 outdoors you all together.  
6 Q And when you say "all together," you mean  
7 housing unit one?  
8 A Housing unit one, yes, sir.  
9 Q You mentioned that you could get a job.  
10 Have you had a job during your time at ECI?  
11 A Have I -- can you repeat that? I didn't  
12 understand.  
13 Q Have you had a job at ECI since you've  
14 been there?  
15 A Yes, sir.  
16 Q What was that?  
17 A In the kitchen and education. They  
18 consider that a job, education, going to school.  
19 Q Education. You going to classes as a  
20 student was considered a job?  
21 A Yes, sir.

32

1 Q Did you get paid for that?  
2 A Yes, sir.  
3 Q And what kind of classes have you taken?  
4 A I was going for my GED.  
5 Q Any other classes?  
6 A No, sir.  
7 Q You said you worked in the kitchen as  
8 well?  
9 A Yes, sir.  
10 Q Are you currently working in the kitchen?  
11 A Yes.  
12 Q How long have you been working in the  
13 kitchen?  
14 A Probably about seven months, six, seven  
15 months, I believe, somewhere around there.  
16 Q And what are your duties in the kitchen?  
17 A I serve on the line.  
18 Q Any other jobs other than working in the  
19 kitchen and going to classes?  
20 A No, sir.  
21 Q How often were you allowed to take a

33

1 shower while you were in housing unit one?  
2 A You can take showers during your  
3 recreation time, so you can take as many as you want  
4 during your recreation time.  
5 Q And where were the showers located?  
6 A In the bottom part of the rec hall, on the  
7 bottom floor of the rec hall.  
8 Q Did only your tier have access to those  
9 showers or did other tiers from your housing unit  
10 also have access?  
11 A Just your tier.  
12 Q So when you moved into housing unit one,  
13 you said your cellmate was Kevin Barnes?  
14 A Yes, sir.  
15 Q Prior to moving in the cell with  
16 Mr. Barnes, had you ever had any contact with him  
17 previously?  
18 A No, sir.  
19 Q And how did it go, living with Mr. Barnes?  
20 A Not too well.  
21 Q Tell me about that.

34

1 A What do you want to know?

2 Q What was your relationship with

3 Mr. Barnes?

4 A We didn't have one. He didn't care about

5 having -- being friends or anything. We didn't have

6 a relationship.

7 Q The cell you two shared, was it bunk beds

8 or two flat beds?

9 A Bunk beds.

10 Q And who had the top bed?

11 A I did.

12 Q Do you know if Mr. Barnes had been on

13 housing unit one for any length of time prior to you

14 getting there?

15 A Can you repeat that.

16 Q Had Mr. Barnes already been in housing

17 unit one for a couple of months or even longer

18 before you got there, if you know? You may not

19 know.

20 A I'm not sure to know how long he had

21 been there. I know we didn't have a conversation,

35

1 you know.

2 Q You never had any conversations with Kevin

3 Barnes?

4 A Not really.

5 Q So when you say, "Not too good," is it

6 because you didn't talk or did bad things happen?

7 A No. He just wasn't -- like I say, he

8 didn't want to be friends. He didn't want to talk,

9 to communicate. He didn't want to talk.

10 Q Did you try to communicate with him?

11 A I tried talking to him before. I tried

12 talking to him a few times.

13 Q Did he ever threaten you?

14 A Yes, sir.

15 Q I'm sorry. I didn't hear that.

16 A Yes, sir.

17 Q What did he say, exactly?

18 A He said if I didn't move out of the cell,

19 there was going to be trouble.

20 Q And when did he say that, if you recall?

21 A I'm not sure on the date. I'm not exactly

36

1 sure on the date.

2 Q What did you think he meant by "trouble"?

3 A I mean, I didn't even know what way -- I

4 took it as trouble as far as that, you know. I'd

5 better look out for myself or something was going to

6 happen.

7 Q So you guys aren't really talking and then

8 one day he says, "You'd better move out or there's

9 going to be trouble"?

10 A No, he was hostile the day I moved -- from

11 the time I moved in the cell. From the time I moved

12 in the cell.

13 Q What do you mean by "hostile"?

14 A The way he was acting, like he didn't want

15 me in the cell. Like he never wanted me in the cell

16 from the beginning. From the day one, when I moved

17 in the cell, he told me he didn't want me in there

18 with shoes on.

19 So from that day on, he was hostile. He

20 was, you know, like, he didn't want to try to be

21 friends or anything, get along.

37

1 Q So you're saying on day one he was hostile

2 because you were wearing shoes?

3 A Yes, that's what this all came about that

4 I know of, from day one. He told me I couldn't come

5 in the room with my shoes on. That I had to remove

6 them.

7 Q Have you ever experienced anything similar

8 to that during your other periods of incarceration

9 where somebody's asking you to take off your shoes?

10 A No, sir.

11 Q Do you have any idea why he had a problem

12 with you wearing shoes?

13 A I can't answer that, no. I don't know. I

14 don't know why he had a problem with that. Maybe

15 it's religious or something. I don't know.

16 Q He didn't tell you, obviously?

17 A I don't know.

18 Q So on day one he says, "I don't want you

19 here because you have shoes on," and what happens in

20 between that and him telling you, "If you don't move

21 out, there's going to be trouble"?

1 A I don't understand what you're asking me.  
2 Q Are there any other incidents between you  
3 and Barnes between those two times?  
4 A Yes, the whole time. From the time I  
5 moved in. From the time I moved in on December 23rd  
6 to the time I put in the request on the 28th.  
7 I mean, it was just little things. It  
8 was, you know, telling me if I didn't move out the  
9 cell, there was going to be trouble one minute; and  
10 I even told him, "Hey, I went to the lieutenant and  
11 I'm trying to get out the cell just as much as you  
12 want me out."  
13 Q You said that once you put a request in?  
14 A I said that when?  
15 Q You said that after you put a request in,  
16 I assume?  
17 A I said that during that conversation at  
18 that -- about that. I said that, "I'm trying to get  
19 out the cell just as bad as you want me out of it.  
20 I'm trying to get out. I put in a request to the  
21 lieutenant to move out the cell."

39

1 Q Now, I assume, since he was in the same  
2 cell as you, being the same tier, he would eat with  
3 you as well or eat in the same area as you?  
4 A Yes, we all ate together off the same  
5 tier.  
6 Q Same thing with rec. He would rec in the  
7 same areas as you?  
8 A We always had to rec in the same place as  
9 well.  
10 Q Did he have a certain group of people he  
11 hung out with regularly?  
12 A I never really paid attention to that. I  
13 would assume so, that he had friends or people he  
14 hung out with. I mean -- I'm quite sure he had to  
15 have people there individually he hung out with,  
16 right.  
17 But I don't recall, you know, just  
18 watching him like that or watching who he hung out  
19 with.  
20 Q Prior to the assault, did you ever have  
21 any incidents with Mr. Barnes outside your cell?

1 A No, sir. You said "prior to the assault"  
2 did I ever -- no, except for -- I mean, besides the  
3 cell?  
4 Q Right. I'm talking out of the cell. Rec,  
5 meals?  
6 A Prior to the assault, no, there wasn't no  
7 other incidents.  
8 Q Did anyone ever approach you on behalf of  
9 Mr. Barnes and threaten you?  
10 A No.  
11 Q Did Mr. Barnes actually ever threaten you  
12 harm?  
13 MR. CAIOLA: Objection; asked and  
14 answered. He said, "There's going to be trouble."  
15 MR. PICKUS: I'm asking him a more  
16 specific question.  
17 MR. CAIOLA: You asked him what trouble  
18 meant and he already answered that.  
19 MR. PICKUS: I think I can ask him a  
20 specific question.  
21 MR. CAIOLA: You can ask him.

41

1 BY MR. PICKUS:  
2 Q Did he actually threaten to physically  
3 hurt you prior to the assault?  
4 A Did he actually -- repeat that again.  
5 Q Did he actually threaten you with physical  
6 harm prior to the assault? I know he said, "There's  
7 going to be trouble," but I'm talking about a  
8 specific threat.  
9 A That is a threat.  
10 Q I agree that's a threat. I'm talking  
11 about more specific threats.  
12 A I mean, not that I recall. Only thing I  
13 recall is him saying, "If you don't move out of the  
14 cell, there's going to be some trouble."  
15 (Recess taken from 10:28 a.m. until  
16 10:30 a.m.)  
17 (Queen Deposition Exhibit Nos. 1 and  
18 2 were marked for identification.)  
19 BY MR. PICKUS:  
20 Q There eventually came a time where you  
21 decided to complain to the staff about Mr. Barnes;

42

1 is that correct?

2 A Say that again. I didn't hear you because

3 of the phone that rung.

4 Q All right. I think the fax is coming

5 through. Maybe we should wait and let that get

6 through.

7 A The officer, he ain't in here. He went

8 out. Do you want me to call him?

9 Q That's okay.

10 Can you hear me now? Is the fax machine

11 done?

12 A Yes, sir.

13 Q Based on your relationship with

14 Mr. Barnes, you decided you needed a cell change,

15 correct?

16 A Yes, I would say that's correct.

17 Q Had you ever put in a request for a cell

18 change prior to this?

19 A No, sir.

20 Q I'm talking about in your entire time in

21 DOC, have you ever made a request for a cell change

43

1 prior to Mr. Barnes?

2 A No, sir.

3 Q What was your understanding of the process

4 of a cell change request when you were in housing

5 unit one?

6 A Can you repeat that.

7 Q What was your understanding of a cell

8 change request process while you were in housing

9 unit one?

10 A My understanding was that if you were to

11 write to the lieutenant, then he was the only one

12 that could move your cell. That's what I was told.

13 Q Who were you told that by?

14 A By Officer Peterson.

15 Q Peterson?

16 A Yes, sir. Officer Peterson.

17 Q Did you ever make an oral request for a

18 cell change to any staff?

19 A No, sir. Not that I know.

20 Q Did you ever tell any of the other staff

21 orally what was going on with Mr. Barnes?

44

1 A Yes, sir.

2 Q Who?

3 A Officer Peterson.

4 Q What did you tell Officer Peterson?

5 A Officer Peterson was aware of the whole

6 situation. Him and Sergeant Thompson.

7 Q Thomas.

8 A You say how?

9 Q You said "Sergeant Thompson." I assume

10 you meant Sergeant Thomas, the female sergeant.

11 A Yes, that's who I said, Thomas.

12 MR. CAIOLA: You said Thompson, Mr. Queen.

13 But you mean Sergeant Thomas, right, Sandra Thomas?

14 THE WITNESS: Yes, sir.

15 BY MR. PICKUS:

16 Q So you spoke to Officer Peterson and

17 Sergeant Thomas about the situation with Mr. Barnes?

18 A Yes, they were both aware of it. Yes, I

19 spoke with both of them.

20 Q And what did you tell them?

21 A I spoke with --

45

1 Q What did you tell them exactly? Let's

2 start with Officer Peterson. Do you recall exactly

3 what you told Officer Peterson?

4 A What did I tell Peterson? Peterson was

5 the one that -- when he didn't want me in the room

6 with the shoes on, Peterson was the one that went

7 and got Sergeant -- what did you say, you keep

8 saying I'm saying Thompson -- Thomas?

9 Q Thomas.

10 A He went and got her and brought her back

11 upstairs, and she was the one -- she was also aware

12 of it.

13 Q Was this on the first day you moved in?

14 A Yes, sir.

15 Q But that wasn't the day Barnes said, "if

16 you don't move out, there's going to be trouble."

17 He was just giving you a hard time about the shoes,

18 correct?

19 A On that particular day, right. That was

20 before he told me there was going to be trouble.

21 Q So you just told Peterson and Thomas about

1 the shoe situation?

2 A Right. They were -- she and he was aware

3 about the shoe situation. And then from that point,

4 Peterson was aware that we weren't getting along

5 because every day he would ask me and he would tell

6 me. "Well, if you want to move, you have to write to

7 the lieutenant because I can't move you." He told

8 me this on basically a day-to-day basis.

9 Q I want to go back to that first date for a

10 second, when you talked to both Peterson and

11 Sergeant Thomas about the shoes. Did you orally

12 tell them you were interested in changing your cell

13 that day?

14 A Did I orally tell, no, because it wasn't

15 no -- it was oral. If I wasn't to go in the cell, I

16 have to go to a lockdown, to be locked down. I

17 would receive a ticket for refusing housing.

18 Q Well, were you interested in being in a

19 different cell that day?

20 A Not if it meant me being locked up for

21 refusing housing.

1 Q And when did you start asking Sergeant

2 Peterson about a cell change request? How long

3 after that first day?

4 A How long after that day before I --

5 MR. CAIOLA: One moment. I object to the

6 question because it assumes a statement that he has

7 not made, that he told Officer Peterson he wanted a

8 cell change.

9 BY MR. PICKUS:

10 Q Did you tell Officer Peterson at some

11 point that you wanted a cell change?

12 A Peterson -- Officer Peterson told me --

13 right, if I wasn't getting along, to let him know.

14 If we were still having problems or there was a

15 problem, then to write to the lieutenant because

16 that was the only way I could move myself. It was

17 through the lieutenant.

18 Q And when did he tell you that in

19 relationship to the first day you went into the

20 cell?

21 A I would say maybe a day or two day -- day

1 or two after.

2 Q And how long was it before you actually

3 got around to doing a written request, your best

4 estimate? We're not going to hold you to exact

5 dates.

6 A It's right here in front of me. I know

7 the day I did it, on the 28th. That's when I wrote

8 the request.

9 Q How long had you been in the cell with

10 Barnes at that point?

11 A Five days.

12 Q And you see what's been marked as Exhibit

13 No. 1 in front of you?

14 A Excuse me?

15 Q Do you see what's been marked as Exhibit

16 No. 1 for this deposition in front of you?

17 A Do I have Exhibit No. 1 in front of me?

18 Q Yes.

19 A Yes.

20 Q Have you had an opportunity to take a

21 quick review of that?

1 A I don't even really need to look at it,

2 right. I know -- yes, I'm looking at it.

3 Q Can you tell me what Exhibit No. 1 is?

4 A It's a request slip.

5 Q Who filled out the request slip?

6 A I did.

7 Q And you recognize your handwriting?

8 A Yes, sir.

9 Q Can you read the -- you see where it says,

10 "Request, please be specific"?

11 A Yes, sir.

12 Q Could you read that for me?

13 A "Request, please be specific. I am in 38

14 and would like to move to 45 because me and my celly

15 are not getting along from the time I moved in. He

16 has told me that there will be trouble unless I move

17 out. Thank you. Darius L. Queen."

18 Q And that's your handwriting?

19 A Yes, sir.

20 Q Now, somebody wrote something in the staff

21 reply. Do you see that?

50

1 A Yes, sir.

2 Q Could you read that if you can read the  
3 writing.

4 A It says "No," with a quotation and it  
5 says, "Lieutenant Ward."

6 MR. CAIOLA: You mean an exclamation, I  
7 believe.

8 THE WITNESS: Exclamation, I'm sorry.

9 BY MR. PICKUS:

10 Q Did you see Lieutenant Ward write that on  
11 this form?

12 A No, sir. I received this form back  
13 through the mail when they passed it back around.  
14 Somebody brought it to my door. When they pass our  
15 mail, an officer or somebody handed -- gave it to  
16 me.

17 Q The date on the form is December 28th,  
18 2001. Does that sound correct?

19 A Yes.

20 Q How long would you say it took for the  
21 form to come back to you with the staff reply

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1 written on it?

2 A A day.

3 Q The same day or the day after?

4 A I received it back -- I got this back the  
5 next day. I believe it was the next day.

6 Q When you put this request in, how did you  
7 get it to Lieutenant Ward?

8 A You know, I believe -- I'm not 100 percent  
9 certain, but I believe it was given to the clerk.  
10 What the older guy had told me to do, he told me to  
11 give it to the clerk. I gave it to the clerk and he  
12 placed it on the lieutenant's desk, he said.

13 Q When you say "older guy," you're talking  
14 about the gentleman you went to church with?

15 A Yes, sir.

16 Q And when you say "clerk," who are you  
17 referring to?

18 A The housing unit clerk.

19 Q Can you give us a name?

20 A No, sir.

21 Q You did not give it to Peterson?

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1 A No, I don't recall -- whether he gave it  
2 to Peterson. I believe I gave it to the clerk  
3 though. I handed it to the clerk, if I ain't  
4 mistaken.

5 Q And who brought it back to you?

6 A I believe it was the officers. They're  
7 the ones that pass out mail. Only officers allowed  
8 to give mail back.

9 Q So it came back to you in the normal mail?

10 A Yes. Came back the next day.

11 Q Did you ever talk to Lieutenant Ward about  
12 your request?

13 A I've never met Lieutenant Ward until  
14 recently.

15 Q Recently, after this litigation started?

16 A Except -- no, except for at the adjustment  
17 hearing and stuff. I met him at the adjustment  
18 hearing.

19 Q The adjustment hearing for Mr. Barnes  
20 you're talking about, I assume.

21 A Right, right. That's when I met him.

53

1 Q Prior to meeting him at Barnes' adjustment  
2 hearing, had you ever met Lieutenant Ward face to  
3 face?

4 A No. It was the adjustment hearing, and I  
5 believe -- I'm not even sure about this -- but the  
6 day of the assault. I'm not sure if I saw him that  
7 particular day, but I don't think I did.

8 I might have saw him the day of the  
9 assault, which was January 12th, '02. So I might  
10 have. On January 12th, '02, I might have saw him.

11 Q There's a second sheet of paper that  
12 should be marked as Exhibit No. 2.

13 Would you be kind enough to take a quick  
14 look at that document for me.

15 A Yes, sir.

16 Q Do you need a second to review that?

17 A No, sir.

18 Q Have you seen that document before?

19 A I mean, yes, I've seen it before, yes.

20 Q When?

21 A What do you want to know, the exact date?

54

1 Q No, I don't need to know the exact date.  
 2 Just the circumstances.  
 3 A I've seen it when -- the first time I ever  
 4 seen this particular form with my time written on it  
 5 was -- I would have to say it was in the declaration  
 6 of Lieutenant Ward's. That's the first time I ever  
 7 laid eyes on this form, when I began my federal  
 8 lawsuit.  
 9 Q So you never saw this form prior to  
 10 getting assaulted by Barnes?  
 11 A I never saw this form, period, throughout  
 12 none of my -- no, sir. I never saw the form until I  
 13 began my federal case.  
 14 Q Okay. Do you recall the day you were  
 15 assaulted?  
 16 A January 12th, 2002.  
 17 Q After you got back Exhibit No. 1 that we  
 18 talked about, saying your cell request was denied,  
 19 December 28th, you said you got it back the next  
 20 day, the 29th.  
 21 Did you make any other requests for cell

55

1 changes before you were assaulted?  
 2 A No. That was the only request slip that I  
 3 filled out.  
 4 Q And what happened with your relationship  
 5 with Barnes after this cell request was denied?  
 6 Actually, strike that.  
 7 Did Mr. Barnes know you made a request for  
 8 a cell change?  
 9 A I mean, I'm not sure except for, like I  
 10 told you, I made a statement saying that I'm trying  
 11 to move out just as much as you want me out of the  
 12 cell. And that I said verbally, yes, "I wrote to  
 13 the lieutenant to try to get out of the cell."  
 14 Q Did you ever --  
 15 A I don't know if he --  
 16 Q You can continue if you want to.  
 17 A I don't know if he was aware -- I don't  
 18 think he know when I received the request and he  
 19 said no and all that. I'm not sure.  
 20 Q Did Mr. Barnes make any more threats to  
 21 you after this request was denied prior to the

56

1 assault?  
 2 A It was a constant thing, anyway. It was  
 3 just every day it was, you know, a little bickering  
 4 and saying, you know, trouble.  
 5 It was like, "You got to get up out of  
 6 here or there's going to be some trouble if you  
 7 don't move out of the cell, I'm telling you."  
 8 Things like that. That was a daily -- that was a  
 9 constant thing.  
 10 Q If the cell change request had been  
 11 granted, where did you want to go?  
 12 A If it had been granted?  
 13 MR. CAIOLA: Objection.  
 14 A It wouldn't have made any difference.  
 15 MR. CAIOLA: Wait a minute, Mr. Queen.  
 16 Objection. Do you mean did he have a  
 17 specific cell in mind that he wanted to be  
 18 transferred to or do you mean a tier?  
 19 MR. PICKUS: Cell, tier, unit, anything.  
 20 MR. CAIOLA: Could you ask him that  
 21 specific question because I think your question was

57

1 vague.  
 2 A It wouldn't have made any difference  
 3 where.  
 4 BY MR. PICKUS:  
 5 Q You didn't have a specific place you  
 6 wanted to go in mind? Did you have a specific place  
 7 you wanted to go when you made your request?  
 8 A When I made the request, I noticed that  
 9 that cell was open because the older guy had told  
 10 me, a friend had told me. He was like, "There's a  
 11 specific cell open, why don't you try to get in that  
 12 cell." I'm going to move into that cell because  
 13 it's open.  
 14 Because the guy told me. He was like,  
 15 "The only thing that's going to happen is the guy  
 16 will end up jumping you or something, so why don't  
 17 you try to get on out of there?"  
 18 Q Well, what specific cell are you talking  
 19 about?  
 20 A Cell 45.  
 21 Q Same tier?

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1 A That was -- yes, it was on the same tier.  
 2 Q When you say "open," does that mean there  
 3 was no one in it or there was only one person in it?  
 4 A There was only one person in it.  
 5 Q Did you know the person in cell 45 when  
 6 you made the transfer?  
 7 A No, sir. When I made the transfer? I  
 8 don't understand what you just said. You said,  
 9 "When you made the transfer."  
 10 Q You testified when you made the transfer  
 11 you knew --  
 12 MR. CAIOLA: You mean the transfer  
 13 request.  
 14 MR. PICKUS: Transfer request.  
 15 BY MR. PICKUS:  
 16 Q When you made a transfer request --  
 17 A Oh, okay.  
 18 Q -- you knew that there was an opening in  
 19 cell 45. Did you know the inmate who was in there  
 20 at that time?  
 21 A No, I didn't know the inmate that was in

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1 cell 45 when I filled out the request slip to be  
 2 moved.  
 3 Q Did you ever communicate your desire to go  
 4 to cell 45 to any staff in housing unit one?  
 5 A No, sir. Nothing but -- just this request  
 6 slip. Just the request slip that I filled out to  
 7 the lieutenant.  
 8 Q How about your oral conversations with  
 9 Officer Peterson?  
 10 A Just -- because he's the one that told me  
 11 to go through the lieutenant. So I did what I was  
 12 told to do. I wrote to the lieutenant to try to be  
 13 moved.  
 14 Q And same thing with Sergeant Thomas?  
 15 MR. CAIOLA: Objection. I believe his  
 16 testimony is that he didn't converse with Sergeant  
 17 Thomas other than the first day, which was before he  
 18 made the request.  
 19 MR. PICKUS: I'll ask him.  
 20 BY MR. PICKUS:  
 21 Q Did you speak to Sergeant Thomas after the

60

1 first day when you were talking to her about the  
 2 shoes?  
 3 A No, I never spoke with her again.  
 4 Q Are you aware of any institutional policy  
 5 that inmates who request a cell transfer have to be  
 6 placed in segregation for a certain amount of time?  
 7 A No, sir.  
 8 MR. CAIOLA: Well, do you mean aware based  
 9 on what's occurred in the litigation or prior to  
 10 that?  
 11 MR. PICKUS: I'll rephrase.  
 12 BY MR. PICKUS:  
 13 Q When a cell transfer occurs due to  
 14 possible safety issues, are you aware of any  
 15 institutional policy where either of the inmates may  
 16 go in that situation?  
 17 A I mean, what you saying, at this  
 18 particular time? Are you asking me that now am I  
 19 aware, or are you asking me before this took place?  
 20 Q Actually, I'll ask you both. When you put  
 21 the request in, the January of '02, were you aware

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1 of an institutional policy?  
 2 MR. CAIOLA: It was December 28th of '01.  
 3 A No, sir.  
 4 BY MR. PICKUS:  
 5 Q Your answer was "no"?  
 6 A Yes, I was following procedure. He said,  
 7 "Put a request in, a request slip."  
 8 That's the only thing I was aware of at  
 9 that time was to put a request in, right.  
 10 Q Are you aware of any policy at this time?  
 11 A I mean, I see -- I'm only aware that if  
 12 you want to be moved, right, you have to put in a  
 13 request.  
 14 Q But you don't have any idea where you go  
 15 if you're moved for safety issues?  
 16 A No. I mean, I'm not sure -- right, I  
 17 can't say for sure.  
 18 Q Have you ever served any time in  
 19 administrative segregation?  
 20 A No, sir.  
 21 Q I'm talking about your entire DOC history,

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1 not just ECI.

2 A None that I'm aware of, no. Never been on  
3 it.

4 Q Have you heard what administrative  
5 segregation is like from other inmates?

6 A No.

7 Q Well, do you view administrative  
8 segregation as something that's desirable?

9 A No. I wouldn't think it's desirable  
10 because you're not entitled to the same privileges.  
11 I mean, when you say "desirable," what do you mean?  
12 Would I like to go?

13 Q Exactly, yes.

14 A No, I wouldn't want that.

15 Q And --

16 A I would like to be in population.

17 Q That's why you didn't move on the first  
18 day because you would have had to go to  
19 administration segregation?

20 A Because I would have received an  
21 infraction, a ticket. Why would I want a ticket? I

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1 would have had to receive an infraction. If I  
2 refused to go in that cell, I would have received a  
3 ticket and then placed -- right.

4 Q All right. Let's get --

5 A For disobeying an order. Basically, it's  
6 disobeying an order.

7 Q Right. I understand. I want to ask you  
8 about the day you were assaulted by Mr. Barnes.  
9 Where were you?

10 A I was in the rec hall, top rec hall,  
11 sitting at the card -- playing at the table, playing  
12 cards.

13 Q With the same group you usually play cards  
14 with?

15 A Yes.

16 Q And tell me what happened?

17 A I was sitting there, playing cards, and  
18 all of a sudden I felt an impact to the side of my  
19 face, and then I got up and he was standing there  
20 with something in his hand. I went to go like I was  
21 going towards him, at him, and another guy walked up

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1 and he hit me to the side of the head. And I turned  
2 around to go at that one and another guy, he hit me  
3 to the side of the head.

4 By that time, I walked to the steps. I  
5 walked down the steps, and once I got down the  
6 steps, I called Officer Peterson. He came through  
7 the screen, which is a fence, and started asking me  
8 questions, what happened.

9 So that particular time I told him that I  
10 fell because he's asking me all -- he's questioning  
11 me in front of these guys that had just assaulted  
12 me, basically. I'm still locked in with these guys.  
13 So I said, "Just let me go lock in my  
14 cell." So he said, "Oh, I know what happened. I  
15 already know it's between you and your celly, ain't  
16 it?"

17 So then he finally gets the door hit and  
18 let me out, and when he escorted me up the steps, I  
19 said, "Man, you know what's going on, you know what  
20 happened." And I'm bleeding and he says, "You're  
21 bleeding," so he walked me to the room and then he

65

1 asked me, "Who was the other guys?" So when I was  
2 being escorted back out to go to medical, I pointed  
3 to who the other guys was.

4 Q So there was a total of three?

5 A Yes.

6 Q When you were playing cards, did you see  
7 them approaching you?

8 A See who approach me?

9 Q Barnes.

10 A You said "them."

11 Q Well, let's stick with Barnes. Did you  
12 see Barnes approaching you?

13 A He walked up from the side, like from the  
14 back side of me.

15 Q Did you see that?

16 A I'm sitting there with my back -- I saw  
17 him out the side as he stepped back, as he hit me  
18 with the object. He's still standing there with the  
19 object in his hand. Yes, I saw that.

20 Q Do you know what the object was?

21 A I know now. I thought it was a shiny

66

1 object at that time, but I believe it was a lock.

2 Q A lock?

3 A Some kind of lock or something.

4 Q Like a padlock, that type of thing?

5 A Yes.

6 Q And you said -- what happened after you  
7 were hit with the first punch or the object? Did  
8 you go to the ground?

9 A No. I jumped up. I didn't fall to the  
10 ground after the first punch or the blow.

11 Q One of the other -- the second inmate came  
12 in and threw a punch?

13 A Yes. After I went towards -- to go  
14 towards him, another inmate threw -- he hit me up  
15 side the head, right.

16 Q So when you say "towards him," you're  
17 going towards Barnes?

18 A Yes, I was going towards Barnes when  
19 another guy came up.

20 Q Did you know the other guy?

21 A No, sir.

67

1 Q Had you seen him before?

2 A I probably seen him on the tier before but  
3 I'm not quite sure.

4 Q Where did he punch you?

5 A Which one?

6 Q The second guy.

7 A Up side the head. To the head.

8 Q Give me a -- try to be a little more  
9 specific, if you could. Where on your head?

10 A Around my face area. Around my jaw area,  
11 face area.

12 Q And what happened after he punched you?

13 A After he punched me, I turned around to go  
14 towards him, to go back towards him, and that's when  
15 another guy walked up and he also hit me to the  
16 face.

17 Q Did you know the third guy?

18 A No, sir.

19 Q Did anyone intervene on your behalf?

20 A When you say, "know", what do you mean --  
21 I don't know him as far as -- I probably seen him on

68

1 the tier but I didn't know them, no.

2 Q Did anyone intervene on your behalf? Any  
3 other inmates intervene on your behalf?

4 A No, sir.

5 Q Were there any -- was there staff nearby  
6 when this occurred, if you know?

7 A They was outside. There ain't no staff  
8 come and intervene, break up anything. If I hadn't  
9 had a chance to walk down the steps, it would never  
10 have been reported. Nobody know or nothing.

11 Q So you were hit a total of three times?

12 A Sir?

13 Q You were hit a total of three times?

14 A Yes.

15 Q And then you were able to walk away?

16 A Yes, I walked down the stairs.

17 Q Did any of the three inmates say anything  
18 to you during the fight?

19 A Not that I'm aware of, no. I don't  
20 remember nobody saying anything.

21 Q Did you throw a punch?

69

1 A No, sir.

2 Q When you walked away, did any of them try  
3 to follow you?

4 A Not that I'm aware of. I walked down the  
5 steps.

6 Q How far did you have to walk to get to  
7 Peterson?

8 A Down the steps. Right at the bottom of  
9 the steps there's a -- that's outside of the rec  
10 hall and you can -- he's standing right there. He  
11 was standing there, outside the rec hall.

12 Q When you say "outside the rec hall," are  
13 you still in the institution at that point or are  
14 you outside in the rec yard?

15 A Excuse me?

16 Q What room did you see Peterson in?

17 A What room?

18 Q Yes, what room?

19 A This is all happening on the tier, right?

20 Q Right.

21 A This is on the tier, on C tier.

70

1 Q Did you walk through any doors to get to  
2 Peterson?  
3 A No, sir. It's a screen fence or a fence  
4 in between the rec hall and the -- outside of the  
5 rec hall is where the cells are. So on that tier.  
6 Q How many steps did you have to go down to  
7 get Peterson?  
8 A I can't count how many steps there were.  
9 I mean, I can estimate. I'd say maybe 25, 30 steps  
10 or so.  
11 Q Could you see into the rec hall at that  
12 point?  
13 A Could who, Peterson?  
14 Q You.  
15 A Could I what? I didn't hear you clearly.  
16 Q When you were standing and talking to  
17 Officer Peterson, could you see into the rec hall at  
18 that point?  
19 A I was in the rec hall.  
20 Q Could you see where you were playing  
21 cards? Could you see that area?

71

1 A You can see all of that area. There's a  
2 camera in there. There's a camera inside the rec  
3 hall.  
4 Q Are you telling me you were seeing it on a  
5 monitor or were you looking down the hall and seeing  
6 it?  
7 A I'm telling you -- you just asked me could  
8 he see in the rec hall, could I see in the rec hall?  
9 Who do you want to know who could see in the rec  
10 hall?  
11 Q I want to know what you could see.  
12 A I don't understand what you're asking.  
13 Q You.  
14 A What I could see. I'm looking at Officer  
15 Peterson.  
16 MR. CAIOLA: Can I try to clarify.  
17 Mr. Queen, I think what Mr. Pickus is  
18 asking is you testified that you walked down 25  
19 or 30 steps. Oftentimes, that will put you much  
20 lower than the rest of the rec hall.  
21 And his question is once you walked down

72

1 the steps, could you still see where you had been  
2 sitting before? Where you had been sitting playing  
3 cards?  
4 THE WITNESS: You mean from walking down  
5 the steps, can you still see at the top of the rec  
6 hall?  
7 MR. CAIOLA: Yes.  
8 THE WITNESS: Where I was playing cards?  
9 MR. CAIOLA: That's his question.  
10 A Yes, sir.  
11 BY MR. PICKUS:  
12 Q Can you estimate the distance for me  
13 between where you bumped into Peterson and where you  
14 were playing cards?  
15 A About how far apart was that?  
16 Q Your best estimate.  
17 A You said how far apart was that?  
18 Q Right.  
19 A Maybe 25 feet or so. Twenty-five -- I'd  
20 say, yes, about 25 feet, something like that. It's  
21 not that far.

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1 Q Are you aware if you were bleeding at that  
2 point, when you bumped into Officer Peterson?  
3 A Yes, sir.  
4 Q Yes, you were bleeding?  
5 A Yes, I saw it on my shirt.  
6 Q Tell me again about the conversation with  
7 Officer Peterson?  
8 A Once I went down from the top of the  
9 steps, I walked up to Officer Peterson and told him  
10 that I wanted to be locked in the cell.  
11 Q Did you initiate the conversation or did  
12 he initiate the conversation?  
13 A I did.  
14 Q And why did you tell him you wanted to be  
15 locked up in your cell?  
16 A Because I wanted to get out of the unit so  
17 I could explain to him what happened. I wanted to  
18 get out of the rec hall so I could explain to him  
19 what happened.  
20 Q But you first told him that you fell?  
21 A Yes. Hoping that he would just open the

74

1 door and let me out of the rec hall, but --

2 Q What happened after the conversation?

3 A What happened after the conversation?

4 Q Yes.

5 A With Peterson?

6 Q Yes.

7 A What part? What do you mean, "What

8 happened"?

9 Q Did he escort you to your cell?

10 A Oh, yes. He finally escorted me to -- he

11 took me and escorted me up to the cell. He told me

12 to change my shirt.

13 Q Were you locked in?

14 A No, he told me to change my shirt, put on

15 another shirt or something so he could go get me to

16 medical.

17 And on the way down, he asked me who else

18 was it that assaulted me or who else was it that

19 jumped me.

20 Q When did you tell him for the first time

21 that Barnes and some other inmates had jumped you?

75

1 A When did I tell him -- I didn't hear you

2 clearly.

3 Q When did you tell Peterson for the first

4 time that Barnes and the other two inmates had

5 jumped you?

6 A As we was walking up the steps.

7 Q And he asked you if you could point out

8 the other two?

9 A Yes, sir.

10 Q Were you able to do that?

11 A Yes, sir.

12 Q Did you go to medical that day?

13 A Yes, sir.

14 Q What did they do to you in medical?

15 A I believe -- I'm not sure. I believe they

16 took pictures. I'm trying to remember did I receive

17 any stitches or something but I know they took

18 pictures and wiped down some wounds and some cuts

19 and stuff. I can't really recall all the rest.

20 Q Did they give you any medications?

21 A Yes, sir.

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1 Q Do you recall what they gave you?

2 A No, not right off.

3 Q Did you have to have continuing treatment

4 based on the fight with Barnes and the other two

5 inmates? Did you go back to medical after that

6 first day?

7 A After that first day, I kept complaining.

8 I kept complaining because I couldn't chew my food.

9 Q Did you have a problem chewing your food

10 before this happened?

11 A No, sir.

12 Q Did they ever tell you what was wrong with

13 you at medical?

14 A They took an x-ray and told me as a result

15 of the x-ray there wasn't nothing wrong. And then I

16 kept complaining some more, constantly writing

17 requests and complaining. Then they took another

18 x-ray and it showed that my jaw was broken, about a

19 month later.

20 Q And what did they do about that?

21 A Then they sent me out to get wired up, got

77

1 my mouth wired up.

2 Q How long were you wired up?

3 A Close to two months.

4 Q Other than your jaw, have you had any

5 other problems as a result of Barnes and the other

6 two gentlemen hitting you?

7 A Can you repeat that.

8 Q Any other problems as a result of the

9 fight other than your jaw, medical problems?

10 A Just -- it was just my jaw area. Just my

11 jaw.

12 Q Just your jaw?

13 A Medical, yes.

14 Q Were you transferred to a different cell?

15 A I moved on a whole different side of the

16 jail. I was transferred down to the other side of

17 the jail.

18 Q That same day?

19 A Not -- was it the same day. January 12th.

20 I remember I went to housing unit three on the same

21 day of the assault and I stayed in housing unit

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1 three for I don't know how long that was. Then I  
 2 went back to five and I was reclassified, transferred  
 3 on this side, on a different side, on the E side.  
 4 Q Did you ever go to segregation for a  
 5 couple of nights before going to housing unit three?  
 6 A Housing unit three was sometimes  
 7 segregation. That's where you go pending  
 8 investigation or a review, whatever.  
 9 Q Were you in a single cell?  
 10 A I went to housing unit -- they put me in a  
 11 cell with another inmate.  
 12 Q Did you have normal privileges?  
 13 A There wasn't no normal privileges, no,  
 14 sir. I was locked in this cell.  
 15 Q How many nights did you spend there, if  
 16 you recall?  
 17 A They kept me locked in there maybe about a  
 18 week or so or more. I'm not sure. I would say --  
 19 not positive, but I believe it was a week or two  
 20 they kept me in housing unit three.  
 21 Q And then you went to housing unit five?

79

1 A And then I went to housing unit five.  
 2 Q Then you said there was an adjustment  
 3 hearing for Mr. Barnes about what happened?  
 4 A Do I recall an adjustment hearing?  
 5 Q Yes.  
 6 A Yes.  
 7 Q Were you present at the adjustment  
 8 hearing?  
 9 A Yes, sir.  
 10 Q Did you testify at the adjustment hearing?  
 11 A Yes, sir.  
 12 Q Give me an idea how many days after the  
 13 fight occurred the adjustment hearing occurred?  
 14 A Maybe seven, eight days, I believe.  
 15 Q Were you interviewed by staff?  
 16 A I believe.  
 17 Q That's fair. Were you interviewed by  
 18 staff about what happened prior to the adjustment  
 19 hearing?  
 20 A Was I interviewed by the staff? Can you  
 21 repeat that.

80

1 Q Did staff at ECI interview you about the  
 2 fight with Kevin Barnes and the other two inmates  
 3 prior to the adjustment hearing?  
 4 A I don't know. I guess the staff question  
 5 you -- they employees of the state, so --  
 6 Q So you were questioned by people?  
 7 A Right.  
 8 Q Do you know who was in charge of the  
 9 investigation?  
 10 A No, sir, I don't know that.  
 11 Q Do you know who else testified at the  
 12 adjustment hearing?  
 13 A Do I know who testified?  
 14 Q Yes.  
 15 A No, sir. I'm not for sure. I'm not  
 16 positive.  
 17 Q Did you see any of the adjustment hearing  
 18 other than when you testified?  
 19 A I didn't understand your question just  
 20 now.  
 21 Q You testified at the adjustment hearing so

81

1 you were there for that part. Were you there for  
 2 any other part of the adjustment hearing?  
 3 A I was there throughout the whole  
 4 procedure.  
 5 Q So you observed the whole proceeding?  
 6 A Yes, sir.  
 7 Q Did Lieutenant Ward testify?  
 8 A No. He talked to me though. He made a  
 9 comment.  
 10 Q At the hearing?  
 11 A Yes.  
 12 Q How about Sergeant Thomas, did she  
 13 testify?  
 14 A Sergeant Thomas wasn't there that I know  
 15 of. She wasn't there.  
 16 Q Do you know what happened to Mr. Barnes?  
 17 Was he found guilty?  
 18 A Yes, sir.  
 19 Q Do you know what sanction he received?  
 20 A I'm not certain. I know he received  
 21 segregation time or something.

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1 Q How about the other two gentlemen? Do you  
2 know if they had adjustment hearings?

3 A I know one of them did. I know the other  
4 one, they brought in the wrong person, if I ain't  
5 mistaken. The brought in one of the guys that was  
6 the wrong person in the assault. They didn't even  
7 bring in the right person. I told them that.

8 Q The one that they did have the right  
9 person on, do you know what happened to him? Was he  
10 found guilty?

11 A He received segregation or, yes, he got  
12 found guilty too.

13 Q Have you had any contact with Mr. Barnes  
14 since the fight?

15 A No, sir.

16 Q Have you talked to anyone, any other  
17 inmates, about the fight with Mr. Barnes since the  
18 fight?

19 A Yes, I talked to a couple of people about  
20 it. I talked to a few people about the fight.

21 Q Had anyone approached you on behalf of

83

1 Mr. Barnes since the fight?

2 A No, sir.

3 Q Have you made any cell change requests  
4 since the fight?

5 A Have I made any?

6 Q Yes.

7 A No. I ain't requested to move anywhere,  
8 no, sir.

9 Q And I don't know if you know the answer to  
10 this question but I'll ask it anyway: Was  
11 Mr. Barnes added as an enemy in your file?

12 A I would assume so. I believe so.

13 Q Did you request that he -- did you make a  
14 request that he be named as one of your enemies?

15 A That's not your option. I don't know if  
16 that's procedure, but they didn't ask me if I wanted  
17 to make a request to have him placed as an enemy,  
18 no. No one asked me that question.

19 Q And how is your jaw now?

20 A Seems to be all right.

21 Q And you're not having any other problems

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1 medically other than your jaw?

2 MR. CAIOLA: You mean related to the  
3 incident.

4 MR. PICKUS: Thank you.

5 BY MR. PICKUS:

6 Q Related to the incident.

7 A No, sir.

8 MR. PICKUS: Okay. I have no further  
9 questions.

10 EXAMINATION

11 BY MR. CAIOLA:

12 Q Mr. Queen, I just have one or two  
13 questions for you.

14 At one time during the deposition  
15 Mr. Pickus asked you if you had conversed with  
16 Mr. Barnes and you testified that you had and that  
17 he wasn't interested in conversing.

18 By that, did you mean that he never said a  
19 word to you or do you mean that you never had  
20 friendly conversation?

21 A Well, never had no kind of friendly

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1 conversation. It was just, you know, I tried to --  
2 he never had no kind of friendly conversation. He  
3 just wanted me out of his cell. Basically, that's  
4 what it was. He made that clear.

5 MR. CAIOLA: That's all I have.

6 Do you have any follow-up?

7 MR. PICKUS: No.

8 MR. CAIOLA: We're going to read and sign.  
9 (Deposition concluded at 11:23 a.m.)

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1 STATE OF MARYLAND

2 HOWARD COUNTY

3

4 I, Dawn Michele Hyde, a Notary Public of  
5 the State of Maryland, Howard County, do hereby certify  
6 that the above-captioned proceeding took place before  
7 me at the time and place herein set out.

8 I further certify that the proceeding was  
9 recorded stenographically by me and this transcript is  
10 a true record of the proceedings.

11 I further certify that I am not of counsel  
12 to any of the parties, nor an employee of counsel, nor  
13 related to any of the parties, nor in any way  
14 interested in the outcome of the action.

15 As witness my hand and seal this 9th day  
16 of September, 2004.

17

18 Dawn M. Hyde

19 My Commission Expires 10/1/07

20

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## WITNESS CERTIFICATION

4

5 I, Darius Queen, hereby certify that I have  
6 read the foregoing transcript of my deposition taken in  
7 the aforementioned case on September 9th, 2004.

8

9 I further certify that the transcript is  
10 a true and correct transcription of the deposition with  
11 the addition of the errata sheet, which is hereby made  
12 a part of the deposition.

13

14 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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DARIUS QUEEN

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